FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.671 OF 2005

Office Notes, Office Memoranda appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Order

Mr.Rajiv Patil i/b. D.P.Bhatt, for Petitioner.

Mr.Ameya Tamhane, for Respondent nos.1,2,3 & 5.

Mr.G.R.Agarwal i/b. A.M. Saraogi, for Respondent nos.6 & 7.

CORAM: D.K.DESHMUKH,J.

DATED: 31st August, 2005.

P.C.:-

1. The plaintiff had applied for withdrawal of the suit. The defendant nos.6 and 7 had filed an application dated 22.11.2004 seeking direction from the Civil Court to the plaintiff that he should pay court fees in the amount of Rs.78030/-. By the

impugned order, the Trial Court has declined permission to the plaintiff to withdraw the suit and has also not decided as to what would be the appropriate court fee to be paid by the plaintiff.

2. After having heard the learned Counsel for both the sides, in my opinion, the following order would meet the ends of justice:-

(i) The plaintiff is permitted to withdraw his suit in terms of his application dated 29.11.2004.

(ii) The withdrawal of the suit will not bring to an end the application filed by defendant nos.6 and 7 dated 20.11.2004. The Trial Court is directed to decide that application. The Trial Court to take up that application for consideration on 19.9.2005. All the parties including the plaintiff shall appear before the Trial Court for that purpose. The Trial court after granting an opportunity of being heard to both the sides, shall decide the application dated

22.11.2004.

(iii) In case the Trial Court finds that the plaintiff has paid the Court fee in deficit, then the Trial Court shall direct the plaintiff to pay appropriate court fee.

Rule made absolute in terms of the order.

The Petition is disposed of.